

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

This document relates to:

BURNETT, *et al.* v. AL BARAKA INVESTMENT & DEVELOPMENT CORP., *et al.*, Case No. 03-CV-5738;

EURO BROKERS, INC., *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07279; and

WORLD TRADE CENTER PROPERTIES LLC, *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07280.

**DECLARATION OF ALAN R. KABAT
IN SUPPORT OF DEFENDANT SHEIKH HAMAD AL-HUSAINI'S
CONSOLIDATED MOTION TO DISMISS**

I am an attorney licensed to practice in the District of Columbia and am admitted *pro hac vice* in this matter. I am with the law firm of Bernabei & Katz PLLC, counsel to Hamad Al-Husaini. I submit this declaration to transmit to the Court the following documents submitted in support of Mr. Al-Husaini's Consolidated Motion to Dismiss:

1. Exhibit 1 to Mr. Al-Husaini's motion to dismiss is a copy of the Declaration of Sheikh Hamad Al-Husaini (March 30, 2004), and authenticated translation, with the Declaration of Bassim Alim (April 4, 2004) thereto.

2. Exhibit 2 to Mr. Al-Husaini's motion to dismiss is a copy of Process Server Network, "International," online at <http://www.processnet1.com/internat.htm> (last modified Feb. 10, 2004).

3. Exhibit 3 to Mr. Al-Husaini's motion to dismiss is a copy of Process Server Network, "Saudi Arabia," online at http://www.processnet1.com/saudi_arabia.htm (last modified

Mar. 8, 2004).

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on September 3, 2005.



ALAN R. KABAT

Exhibit 1

Sheikh Hamad Al-Husaini's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<i>IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001</i>)	03 MDL No. 1570 (RCC)
)	
)	
THOMAS E. BURNETT, SR., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 03 CV 9849 (RCC)
)	
AL BARAKA INVESTMENT AND DEVELOPMENT)	
CORPORATION, <i>et al.</i> ,)	
)	
Defendants.)	
)	

DECLARATION OF BASSIM ALIM

I, Bassim Alim, being duly sworn, declare and state as follows:

1. I am over 18 years of age and competent to testify to the matters set forth below of my own personal knowledge.

3. I reside in Jeddah, Saudi Arabia, and I am the Managing Partner in the Law Office of Bassim A. Alim, Esq. located at Wali Al-Ahd Street Abeer Building, Suite No. 17, P.O. Box 10361 Jeddah 21433, Saudi Arabia, Phone: +966 2 651 3321, Fax: +966 2 651 0846. The firm is a diversified practice representing a number of Saudi and foreign individuals and institutions in International Trade, Commercial Law, International Transactions, Project Finance, Negotiation, Company Law, Islamic Banking, Islamic Finance, Equipment Leasing, Construction Contracts, Government Consultations, Real Estate, and Aviation.

4. I am an attorney licensed in Saudi Arabia and have been retained by counsel for Dr. Abdullah bin Abdul Mohsen Al-Turki, Mr. Mohammed Ali Mushayt, Sheikh Hamad Al-Husaini, Sheikh Safer Al-Hawali, and Sheikh Salman Al-Oadah in the above-styled case for the purpose of verifying English translations of their Arabic-language affidavits in connection with

their respective motions to dismiss the lawsuit.

5. My educational qualifications can be summarized as follows: I received an LLM degree in 1993 from Harvard Law School, Cambridge, MA; a JD degree in 1992 from American University, Washington College of Law, Washington, D.C.; and a BA degree in 1988 from American University, School of International Service, Washington, D.C. In addition, I hold Saudi Arabian Legal Profession Practice License # 98/23 and Saudi Arabian Legal Translation License # 235.

6. I am a member of a number of law organizations, including the Arab Bar Association (ABA); the International Bar Association (IBA); the Legal Committee of the Saudi Chamber of Commerce Jeddah (Previously); Vice Chairman of the Legal Committee of the Makkah Chamber of Commerce (Previously); the National Legal Committee of the NCCI (Previously);; the Arab Society for the Protection of Intellectual Property; Licensing Executives Society--Arab Countries; and Union Internationale Des Avocats (UIA) - International Association of Lawyers. In addition, I was a Fellow Associate Researcher at The Oxford Center for Islamic Studies, Oxford University, 1994-1996.

7. I have reviewed the originals and the English translations of the declarations to be filed in this case on behalf of Dr. Abdullah bin Abdul Mohsen Al-Turki, Sheikh Hamad Al-Husaini, Mr. Mohamed Ali Mushayt, Sheikh Salman Al-Oadah, and Sheikh Safer Al-Hawali. Based on the qualifications set forth in Paragraphs 5-6, *supra*, I attest that the English translations are true and accurate translations of the original Arabic documents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Bassim Alim

Executed on the 3 day of April, 2004.

محكمة مقاطعة الولايات المتحدة - المقاطعة الجنوبية لنيويورك

قضية توماس بريت _____ نت {
} قضية مدنية (المدعين)
} ضد { مجموعة البركة الاستثمار والتطوير (الدفاع)
} {
} رقم (03 CV 9849)

اقرار الشيخ حمد الحصيني لارفاقه مع طلب إسقاط الدعوى

أقر أنا حمد الحصيني وأقول مايلي:

- 1- أنا عمري أكبر من ١٨ سنة ، وأنا مؤهل للإدلاء بشهادتي حول الواقائع الموصوفة في هذا الإقرار.
- 2- لقد أخبرت أني رقمي في القضية المذكورة أعلاه هو (D209) ، وأنا هذا الإقرار لدعم طلب إسقاط الدعوى المرفوعة ضدي لعدم وجود سلطة قضائية ونقص في إجراءات تبليغ الدعوى.
- 3- ولدت في عام {١٩٢٧} في مدينة {إشيقير} وقد عشت طيلة عمري بالمملكة العربية السعودية وأنا مواطن سعودي.
- 4- أعمل حالياً وكيل تسويق ساعات في مدينة الدمام بالمملكة العربية السعودية.
- 5- لم أزور الولايات المتحدة الأمريكية أبداً.
- 6- لا أملك أي عقار أو حسابات بنكية ولا استثمارات عقارية أو شخصية ، ولا أمارس أي عمل تجاري في الولايات المتحدة الأمريكية أو مع أي مؤسسة أمريكية.
- 7- لست مشترك ولا أقراء جريدة الهر الدنريون العالمية ، ولا جريدة القدس العربي والتي تعتبر على حد علمي من المطبوعات الممنوعة في المملكة العربية السعودية.

٨- أنا لم أساند أبداً أي أعمال تسبب فقد أرواح بريئة، ولا أعتقد أن هناك أي مبرر لهجمات ١١ سبتمبر المأساوية. وبصفتي أحد التجار المعروفين ، دائماً يطلب مني التبرع. فأقدم التبرعات للفقراء والمحاججين فقط.

٩- صلتي بأي من المدعى عليهم في هذه القضية لا تقتضي أنني قمت أو ساعدت أو حضرت على القيام بالإرهاب أو تواطأت في ذلك.

١٠- لقد أخبرني المحامي بأن إسمي أضيف في التعديل الثالث للدعوى ، على كل حال لا يوجد أي تهم موجه لي.

١١- لا أستطيع قراءة أو كتابة أو التحدث باللغة الإنجليزية، وقد تم إخباري بأن إقرارني هذا سيتم ترجمته إلى اللغة الإنجليزية لغرض القضية.

أقر تحت طائلة عقوبة الحنث باليدين طبقاً لقوانين الولايات المتحدة الأمريكية بأن ما سبق حق وصحيح.

الإسم : حمد الحصيني

التوقيع: 

جرى التوقيع في يوم : ٢٠٠٤ من شهر مارس من عام ٢٠٠٤ في المملكة العربية السعودية

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

<i>IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001</i>)	03 MDL No. 1570 (RCC)
)	
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)	
<i>THOMAS E. BURNETT, SR., et al.,</i>)	
)	
Plaintiffs,)	
)	
<i>v.</i>)	C.A. No. 03 CV 9849 (RCC)
)	
<i>AL BARAKA INVESTMENT AND DEVELOPMENT</i>)	
<i>CORPORATION, et al.,</i>)	
)	
Defendants.)	
)	

DECLARATION OF SHEIKH HAMAD AL-HUSAINI

I, Sheikh Hamad Al-Husaini, being duly sworn, declare and state as follows:

1. I am over 18 years of age and competent to testify to the matters set forth below of my own personal knowledge.
2. I have been informed by my attorney that I am a defendant (D209) in the above-captioned action. I am submitting this declaration in support of my Motion to Dismiss for lack of personal jurisdiction and improper service of process.
3. I was born in 1927 in Saudi Arabia, and have lived in that country all of my life. I have always been a citizen of the Kingdom of Saudi Arabia.
4. I am a watch retailer in Dammam, Saudi Arabia.
5. I have never visited the United States.
6. I own no real property in the United States. I also have no bank accounts, and have no investments in the United States. I do not engage in transactions with businesses in the

United States.

7. I am elderly and in poor health, which prevents me from engaging in lengthy travel.

8. I do not subscribe to or read either the *International Herald Tribune* or the *Al Quds al Arabi*. The latter publication, to my knowledge, is banned in the Kingdom of Saudi Arabia.

9. I have never supported the loss of innocent life and believe that there is no justification for the tragic attacks of September 11, 2001. I have never supported any person or organization that I have known to participate in terrorist activities. As a well-known businessman, I have been frequently solicited for donations. I have made charitable donations to support the poor and those in need only.

10. I am informed by my attorney that my name was added to the list of defendants some time after the Third Amended Complaint was filed. However, no allegations were made about me.

11. I cannot read, write, or speak English. I understand that this declaration will be translated into English for purposes of this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Sheikh Hamad Al-Husaini

Executed on the 30 day of March, 2004.

Exhibit 2

Sheikh Hamad Al-Husaini's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)



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- **News** search on any defendant

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About International Service of Process

There are two general methods of service abroad:

Formal Methods:

The "formal method" of service is the generally recommended method of service, particularly in countries that are signatories to an international treaty, such as the *Hague Service Convention*. This method is needed if it is anticipated that enforcement of judgment will be required.

The *Hague Service Convention* set forth the international rules related to service of process outside the originating country. Each nation that belongs to the *Hague Service Convention* agrees to abide by these international rules.

Letters Rogatory is the formal method to be used in countries that are not signers of the Hague Service Convention. In addition, the *Inter-American Convention on Letters Rogatory* controls the same issues between countries in North and South America. *Letters Rogatory* is also used when taking the deposition of a person in another jurisdiction.

The timeframe for service pursuant to formal methods can range from 1 to 5 months since proper procedures and/or diplomatic channels must be followed (typical turnaround time in most nations is 2-3 months). Costs are significantly *lower* than in informal service in most countries.

Generally, we recommend the formal method of service to insure a valid judgment.

No matter which method you choose, **we handle the paperwork and logistics in completing the service in a timely and efficient manner. We do everything** from preparing the letter of transmittal to the translation of your filed documents, as required.

Informal Methods:

Informal methods of service are available in most areas of the world where service by a non-attorney or private process server are . In general, if the country is not a signatory of an international treaty, service may be made by informal methods (similar to service in the United States). However, some countries such as Germany, Japan, Korea, China, Switzerland and Italy do not allow service by private process server and impose serious civil and criminal sanctions on those who violate their national sovereignty.

The advantage to utilizing informal service, in nations where it is available, is often the timeframe for completing service.

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Exhibit 3

Sheikh Hamad Al-Husaini's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)



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Saudi Arabia

Process Service Network is one of a few firms that specializes in international service of process and offers competitive rates on foreign services. Here is a summary of the methods available for service outside the United States and a specific proposal for the requested nation.

Our job is to cut through the bureaucracy and red tape to get the service completed with as little delay as possible. Since we have been in business for 26 years, we have developed close working relationships with key individuals in most countries throughout the world. The founder and President of *Process Service Network* was a Political Science major in college with a focus on international relations and is actively involved in a worldwide organization through which he has developed business and personal relationships in over 80 nations worldwide.

FORMAL SERVICE:

SAUDI ARABIA is not a signer of the Hague Service Convention. There is currently no formal method of service since Saudi Arabia does not honor Letters Rogatory.

INFORMAL SERVICE:

Private process servers may serve documents in most countries, whether a signer of *The Hague Service Convention*, or not. Service is normally handled in a manner similar to methods used in the United States, although completion of the service usually takes longer. Customs and traditions in other countries tend to lead to a slower pace and less rigid work habits, particularly in the Arab nations. Service sometimes may take several months but informal service is generally much faster than formal methods. Most process servers who we employ are off-duty police officers or other government officials who are able to, in certain cases, exercise their official capacity to complete the service. Since we pay the process server a bonus (at our own expense) for prompt

service, the normal delays are usually reduced.

It must be advised, however, that corruption is sometimes evident in that country and that it is common for the process server to contrive an excuse for delays and/or additional costs. We will cover any additional costs but delays may be unavoidable.

Further, service in Saudi Arabia has been complicated in the recent period due to tensions in the Arab world. We do all that is possible to insure a timely completion of the service.

Advantage: Time and cost.

Disadvantage: Judgment may not be enforceable in the country where assets are located.

TRANSLATIONS:

Some countries require the documents to be translated into the official language of the nation where they are to be served. The U.S. State Department *recommends* translation, but it is not a requirement unless the formal method is used. It is possible, although rare, that a demurer could be filed based upon lack of understanding by the defendant as to the nature and meaning of untranslated documents. It is important that the Defendant understand the nature of the documents.

COSTS:

Service of process:

Informal = \$1175.00 All fees are per defendant/address

Translation: \$0.38 per word (proper nouns not translated)

DECLARATIONS:

We provide any necessary formal Declarations, under penalty of perjury, that the Court may require as to the progress and status of the service (at no additional cost).

WARNING: Beware of companies that quote suspiciously low rates. They often come back later with an excuse for an additional charge. Our rates are firm for one address quoted. Other companies are actually brokerage firms or website developers, not process service agencies, who farm out assignments to secondary companies that are not knowledgeable or qualified on international service of process.

DISCLAIMER:

The information contained herein is provided for general information only and may not be accurate at the time of service in a particular case or country. Questions involving specific services should be directed to our office. Care should be exercised in choosing the method of service (formal/informal) if eventual enforcement of a U.S. judgment is anticipated in the country where the documents are to be served. No legal advice is intended in the statements contained herein. Assignments for international service of process are accepted on the basis that the assigning law firm has researched all applicable laws. Process Service Network and its agents assume no liability for its actions in the course of any phase of the service of process assignment.



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